

FROM THE COMMITTEE ON MODEL CIVIL JURY INSTRUCTIONS

The Committee has adopted the following amended model civil jury instructions effective October 26, 2017.

ADOPTED

M Civ JI 60.01 Jury Deliberations

You will be given a written copy of the final jury instructions for your use in the jury room for deliberation. [I will also provide you with an electronically recorded copy of these instructions.]

When you go to the jury room, your deliberations should be conducted in a businesslike manner. You should first select a foreperson. She or he should see to it that the discussion goes forward in an orderly fashion and that each juror has full opportunity to discuss the issues.

When at least five of you agree upon a verdict, it will be received as your verdict. In your deliberations, you should weigh the evidence with an open mind and consideration for each other's opinions.

If differences of opinion arise, you should discuss them in a spirit of fairness and frankness. You should express not only your opinion but also the facts and reasons upon which you base it.

In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion if you are convinced that it is wrong. However, none of you should surrender your honest conviction as to the weight and effect of the evidence or lack of evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict.

During your deliberations, and before you reach a verdict, you must not disclose anything about your discussions to others outside the jury room, not even how your voting stands. Therefore, until you reach a verdict, do not disclose that information, even in the courtroom.

During your deliberations you may not communicate with persons outside the jury room (other than the judge), or seek information by any means, including cellular telephones or other electronic devices. In other words, you cannot talk to anyone on the phone, correspond with anyone, or electronically communicate with anyone about this case.

You can only discuss the case in the jury room with your fellow jurors during deliberations. You may not use these electronic means to investigate or communicate about the case because it is important that you decide the case based solely on the evidence presented in the courtroom and my instructions on the law. Information from the Internet or available through social media might be wrong, incomplete, or inaccurate.

If you discover a juror has violated my instructions, you should report it to me right away.

That concludes my instructions on the law. If you have any questions about these instructions at this point, please write them down and give them to the bailiff. The bailiff will then give them to me, and after consulting with counsel, I will address your questions.

[Having addressed the questions / No questions having been asked,] I have approved a verdict form for your use in the jury room. The verdict form reads as follows: [review verdict form]

If you wish to communicate with me or examine the exhibits while you are deliberating, please have your foreperson write a note and give it to the bailiff. If you have any questions about my instructions on the law, please place those particular questions in a sealed envelope. Any questions or communications with me must be given to the bailiff, who will then pass them to me, and I will address the questions or communications with counsel and respond as appropriate.

Note on Use

If, after reasonable deliberation, the jury reports an inability to agree or fails to return a verdict, then the court may also give M Civ JI 60.02. The court may give the jurors copies of the instructions before the instructions are read to the jury.

Comment

MCL 600.1352 and MCR 2.514(A) now provide for trial by a jury of six in civil cases, with a verdict to be received when five jurors agree. An exception is made for civil actions for commitment of a person to a mental, correctional or training institution, which require a unanimous verdict. MCR 5.740(C); MCL 600.1352.

The 2011 amendment reflects the amendment to MCR 2.513(N) ordered by the Michigan Supreme Court on June 29, 2011, which became effective September 1, 2011. This amendment requires that certain procedures be followed with respect to questions raised by the jurors and that the jurors be given a written copy of the instructions.

History

M Civ JI 60.01 was SJI 1.05. Amended January 1982, April 1986, October 1993, March 2006, October 2011, January 2014, October 2017.

The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

The members of the Committee on Model Civil Jury Instructions are:

Chair: Hon. Mark T. Boonstra

Reporter: Timothy J. Raubinger

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